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The Magistrates' Association

THE possibility of alternatives to short sentences of imprisonment is the subject not only of a current inquiry under the auspices of the Nuffield Foundation (referred to below), but also of a memorandum submitted by the Magistrates' Association in April of this year to the Home Secretary's Advisory Council on the Treatment of Offenders. The memorandum has been printed in full in the annual report of the Magistrates' Association for 1955–56, which has just been published. It is interesting to see among its many detailed recommendations on the subject one that the provisions of s. 17 of the Criminal Justice Act, 1948, and s. 107 of the Magistrates' Courts Act, 1952, which require quarter sessions and magistrates' courts to state their reasons for imposing a prison sentence on a person under twenty-one years of age, should be extended to all first offenders. It is also proposed that meetings of the Association should be used to draw attention to the undesirability of short sentences of imprisonment, and the existence of possible alternatives. The report records the continued growth of the Association. There are now twenty branches either recognised or in the course of formation and the year showed a net increase of 496 new members.

Appeals: Reasons for Decisions

THE Legal Committee of the Magistrates' Association, it is stated in the same report, have made some inquiries from the Registrar of the Divisional Court as to the practice in making known to magistrates' courts the results of appeals in domestic cases. They have been advised that the practice is to leave it to the interested parties to inform the appropriate court if that be necessary, which would normally only be when a rehearing is directed or when the question of enforcement arises. The committee referred to *Harvey* v. *Harvey* [1955] 3 All E.R. 82, in which the President stated, with the consent of the Lord Chancellor, that the Treasury had agreed that transcripts might be provided at the public expense in all cases in which the Divisional Court directed a rehearing by magistrates, and in any other case which the court considered fit for a transcript. The Council, on the recommendation of the committee, has advised the Lord Chancellor that it would assist magistrates in their work if they were informed of the reasons when decisions in the domestic court were reversed by the Divisional Court. The committee, however, felt unable to support a suggestion that r. 58 of the Magistrates' Courts Rules be supplemented to require the clerk, in appeals against sentence, to send to quarter sessions the reasons which influenced the justices.

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It was suggested that the objections to the present system could be met if some method could be devised whereby counsel for the prosecution was better briefed, so that the case could be more adequately presented.

The Nuffield Foundation

DURING the year ended on 31st March, 1956, the Nuffield Foundation continued and expanded its benefactions in a wide variety of fields of scientific research. A full account of these is given in its eleventh report, which was published on 27th September. Included in work for which substantial grants were made was an inquiry which was begun into the use of prison sentences by magistrates' courts. The plan of research has been drawn up by Dr. H. MANNHEIM, who recently retired from the readership in criminology at the London School of Economics and Political Science, in consultation with Mr. T. S. LODGE, statistical adviser to the Home Office. It appears that in 1953 in some magistrates' courts the proportion of men aged 21 and over sentenced to imprisonment for indictable offences was as low as 4·7 per cent. The highest figure was 43·5 per cent., and the average for the whole of England and Wales was 20·9 per cent. The Home Office is anxious to know the reasons for these wide differences of policy. According to the report of the Prison Commissioners for 1954, half of all the offenders sent to prison received sentences of not more than three months. The foundation comments that in view of the overcrowding of local prisons it will be of interest to know in what cases cheaper and more constructive methods, such as probation and fines, might possibly have been used.

LETTER FROM FOREIGN PARTS

NEWQUAY, TUESDAY.

WHILE it would be an exaggeration to say that it was raining this morning, we saw little of the sub-tropical climate which the chairman of the Newquay Urban District Council told us about in his speech of welcome at the Astor Cinema. A damp mist covered the sea and no heights were more wuthering than those which lie inland. Since this morning there has been occasional improvement, but the overcast weather will presumably cheer the several thousand solicitors who are not attending The Law Society's Conference, although it has not depressed the 320 or so who are here. They include, if our calculations are correct, 47 members of the Council and 73 other solicitors who are Presidents, Vice-Presidents or Secretaries of their Provincial Law Societies, most of them with their wives, some of them with other guests. The rank and file, who wear white rectangular cards of identity, can hardly be distinguished in the forest of circular and coloured badges which adorn the élite.

This morning we listened to an inaugural address from the President which was excellent in every way. He denied himself the luxuries of reminiscence and of "exercising his hobby horses," and refused to devote his speech to a précis of the events of the past year, with which we ought to be familiar by reading the Annual Report. Instead, Sir Edwin delivered a penetrating and critical analysis of the position of the solicitors' profession in this country at the present day. In the course of doing so he trod on several corns, but in such a way as to persuade the victims that it might be better to have the corns removed than to blame Sir Edwin for treading on them.

We trust that it is not unfair to say that the theme of the address was that solicitors, being members of an honourable profession, place their knowledge and skill at the disposal of their clients, and that the interests of the client must prevail, whether it happens to be profitable or not, but, nevertheless, that solicitors must eat. More particularly, if solicitors are to retain that position of independence which only private practice can give, society must agree to supply the means whereby private practice can exist. The President finds that in recent years there has been a marked fall in the esteem in which the learned professions are held; the ordinary man does not look up to the intellectual; he is not prepared to take the doctor, the lawyer and the parson at their own valuations; the ordinary client is not prepared to look up to his solicitor as a superior being. He went so far as to say that there is a feeling towards intellectuals of envy mixed with hatred, together with a tendency to treat the professional man as a mechanic, and the solicitor more as a technician instead of an adviser and friend. He finds the climate less favourable to the professions than it used to be or, to change the metaphor, we are rowing upstream.

In addition to the absolute decline in the prestige of all professions, Sir Edwin finds that, relatively, solicitors are losing ground to others, to technicians and the organisers of business. He did not breathe the word "accountant," but many of his hearers imagined it.

The implicit question, in our opinion, is whether we are keeping pace with the march of the twentieth century. If we are losing our position as guides, philosophers and friends, is it not possibly because the subjects on which many people require guidance, philosophy and friendship are taxation and other mundane matters? If the technicians who work the machines sometimes regard the intellectual with a certain amount of scorn, is it not possibly because the intellectual tends to despise the economic basis on which society is built? There was a time when solicitors were "men of affairs." Affairs are very different from what they were a century ago, and some would say that solicitors and accountants are changing places, and that the accountants are the guides, philosophers and friends of the present age, while solicitors are the mere technicians. Let us ponder on the amount of law which accountants in one way and another are required to know, and how little of the accountants' work solicitors are equipped to perform.

Sir Edwin questioned whether we are doing all we should about legal education and whether we are necessarily getting all the right recruits to the profession, and in general agitated so many complacently held assumptions that it is difficult to suggest what can be done about it. The danger is that his address will be "read with interest" and give rise to a few animated discussions and that literally nothing will be done about it at all. This would be a pity, because the more far-sighted of our profession are beginning to wonder what it holds for their sons in the next thirty or forty years. We intend to refer next week to some of the detailed points in Sir Edwin's address, but we hope that he will use his year of office not in detail but in continuing to awake in his fellows the realisation that all is not necessarily for the best.

RUNNING DOWN CASES: CONDUCT BEFORE ACTION—II

Police reports, etc.

It may well be that the client himself has no knowledge of who were witnesses of the accident in which he has become involved, and in these circumstances an abstract of the police report may be helpful. This can be obtained from the headquarters of the local constabulary for a fee of £1. The request for the abstract should be addressed to the superintendent of the police station concerned and should be accompanied by a cheque or postal order made payable to the chief constable of the local constabulary or, if the accident has occurred within the Metropolitan Police district, the request should be addressed to the Commissioner of Police of the Metropolis at New Scotland Yard, S.W.1, and the accompanying cheque should be made payable to the Bank of England and crossed "Account Receiver for the Metropolitan Police District."

It will of course be realised that police reports, books and records are confidential and privileged documents and the Commissioner or chief constable will not be able to accede to any request made for copies of such documents. However, the Commissioner or chief constable is generally prepared to furnish to the parties interested, or to their properly authorised legal representative, an abstract giving salient facts from the accounts and containing the bare bones of a description of the circumstances in which the accident occurred. If a policeman has been present, his own account of the way in which the accident occurred will be summarised in the abstract, and the latter will also include the names and addresses of witnesses, together with details of the site of the accident, the weather conditions, light, traffic conditions, and in certain cases details of the damage to the vehicles concerned.

There may be some delay in obtaining the abstract if police proceedings are contemplated against either of the parties to a road accident, as normally such abstracts are not supplied until police proceedings have been concluded. The position is similar if an inquest is to be held where a fatal accident has occurred.

If a request for a police abstract is made and the search by the local police force for a record of the accident reveals that there is no report upon the particular accident, a search fee of 5s. is retained by the police and the balance returned to the solicitor who applies for the report.

In addition to the abstract of the police report, copies of statements made to the police by witnesses will be supplied by the police if a solicitor (and only a solicitor) acting for a party applies for a copy of a statement so made, and the witness concerned gives his consent to the Commissioner or to the chief constable. The fee for a copy of a witness's statement is 7s. 6d.

If after the abstract of the police report has been supplied the solicitor wishes to interview the officer concerned to amplify or elucidate points in the abstract arrangements can, as a general rule, be made with the police officer's superior officer for such an interview, provided adequate notice is given either in writing or by telephone.

The position is similar if after a subpœna has been served an interview is desired to take a proof of evidence from the police officer for the purpose of civil proceedings. A fee of £1 in respect of each police officer per interview actually arranged is charged, unless reasonable notice of any postponement of the interview is given to the police. The interview takes place in the presence of a superior officer, who collects the fee and issues the receipt therefor.

Ascertaining what damage has been suffered

It is also advisable in the writer's opinion to anticipate as far as possible the questions which are sure to be asked by the insurance company or solicitors acting for the other side, because if a case can be kept "on the move" it is less likely to go stale, and more likely that an amicable settlement thereof will be reached, particularly if the insurance company or solicitors acting for the other side realise that they have to contend with a legal adviser who is fully conversant with all the circumstances of the accident.

It is accordingly suggested that one's client should on the occasion of the first interview be asked (in addition to the twenty-six questions suggested in the first article):—

27. The nature and extent of his injuries.
28. Whether or not he is suffering any continuing disability.
29. The name and address of any hospital at which he has been or is being treated, together with the specialist's name, and the hospital case number.
30. The whereabouts of his car.
31. Whether or not it is roadworthy.
32. If it is not roadworthy, the name, address and telephone number of the garage where it may be inspected.
33. Whether or not he has requested an estimate for the repair of the vehicle; and if this has been requested, the time at which it is anticipated that the estimate will be ready, and the approximate amount thereof.

Letter before action

The solicitor will now have enough information before him to consider the case in detail, with particular reference to whether or not liability, in his opinion, exists upon the other side and, should he be satisfied that this liability does exist, he will then so advise his client, and in the majority of cases be instructed by his client to make a claim against the other party.

It is of course common knowledge that an action is not commenced at once but that a preliminary letter, intimating the claim, is written to the other side before action.

The writer suggests that if the insurance company is known, a letter may be sent to the potential defendant, and a carbon copy thereof direct to the insurance company under a covering letter. If the insurance company which insures the defendant is not known, then this carbon copy may be sent to the defendant himself with the suggestion that he forwards it direct and at once to his own insurance company which will deal with the matter for him.

The exact contents of the letter before action are a moot point.

Some solicitors take the view that the letter before action should contain nothing but a description of their client, the date and place of the accident and a general allegation of negligence or breach of statutory duty, with a request for proposals for compensating the injured party.

Other solicitors make the most detailed allegations of negligence, making their letter read more like counsel's opinion or his settled statement of claim than anything else.

The writer favours a middle course, setting out brief details of the way in which the accident occured, and indicating the general lines upon which it appears that liability is imposed upon the alleged defendant. He does not feel that it is right to

anticipate counsel's pleadings in such a case, and yet knows that, if nothing more than a bald allegation of negligence is made, further correspondence is sure to ensue with the insurance company, who will wish to have detailed allegations of negligence in due course. It should be made clear that the grounds stated for holding the proposed defendant liable are not exhaustive.

It is suggested that if the injured party has fully recovered or it is known that he is likely to have some permanent disability, this may well be disclosed to the defendant or the insurance company in the letter before action, with an intimation that if a medical examination is required this will be forthcoming upon whatever terms the particular solicitor favours. The writer himself does not feel that to-day any benefit is obtained by having a joint medical examination of his client with his client's medical adviser present at the same time as the medical adviser of the other side, provided that warning is given to his client not to answer any questions relating to the circumstances of the accident, but only those referring to his health.

In next week's article the calculation of special damages will be considered.

J. G. F.

SPEED LIMITS—I

Forthcoming changes

It is proposed to review in this article the general law relating to the speed limits of motor vehicles. By way of preface, it is important to note that some changes in the law are pending. The Road Traffic Act, 1956, s. 4, makes the speed limit in built-up areas permanent—up to now it has been renewed annually in the Expiring Laws Continuance Act—and allows a speed limit of 40 m.p.h. for any length of road specified by the appropriate authority, but the date of operation of s. 4 is not yet known. In particular, also, the power to raise the speed limit to 40 m.p.h. will probably be postponed until some time after the rest of s. 4 has come into operation. Section 4 (2) provides that a length of trunk or classified road shall not be deemed to be in a built-up area (i.e., and so subject to a limit of 30 m.p.h.) by reason only of the system of street lighting thereon if no such system was provided there before s. 4 came into operation; " trunk road " and " classified road " are defined in s. 4 (10) and, very broadly speaking, these terms mean main roads and the more important secondary roads. It is provided by s. 4 (7) that, where there are not street lamps less than 200 yards apart, the fact that that length of road has been subjected to a speed limit must be indicated by signs.

As stated, s. 4 is not yet in operation and the Road Traffic Act, 1956, does not otherwise affect speed limits. During the debates on the Bill, the Minister of Transport undertook to make regulations raising the speed limit for heavy goods vehicles and for vehicles towing a caravan with close-coupled wheels. At the moment, heavy motor cars (i.e., those with an unladen weight exceeding three tons) constructed or adapted to carry goods or burden are subject to a limit of 20 m.p.h. at all times.

Anyone who travels round the country will know that this limit is frequently not observed, and it was generally conceded in the debates that there would be little danger to road safety if it was raised to 30 m.p.h. There has been, however, objection to raising it from 20 m.p.h. from the representatives of the drivers themselves, as they fear that, if it is raised, they will be called upon by their employers to undertake longer journeys in much shorter times, with a consequent danger to road safety. Representatives of the employers and employees have not been able to agree a compromise on this issue, but the Minister has announced that nevertheless the limit will be raised but the change will not come into effect until the spring of 1957. The new regulations, which will amend the Road Traffic Act, 1930, Sched. I, para. 2 (1) (*d*), accordingly, have not yet been made. In a later debate the Minister also undertook to amend para. 1 of Sched. I to allow caravans with close-coupled wheels to be towed by private cars at a speed of 30 m.p.h. At present, a car may tow a two-wheeled trailer at 30 m.p.h. but, if the trailer has more than two wheels, the limit is 20 m.p.h. Some caravans are now being built, however, with the wheels close-coupled; the reason is to make for better stability and so greater safety but, as there are more than two wheels, the speed is limited to 20 m.p.h. while less safe two-wheeled caravans can be towed at 30 m.p.h. Here again the regulations have not yet been issued.

Driving at a dangerous speed

This offence arises under the Road Traffic Act, 1930, s. 11, and it is discussed at p. 500, *ante*. The offence can be committed although the vehicle is not being driven at a speed in excess of its lawful permitted speed, e.g., the lawful speed for a car in a built-up area is 30 m.p.h., but such a speed up a road as thronged as Petticoat Lane is on a Sunday morning would clearly be dangerous. In *Welton* v. *Taneborne* (1908), 72 J.P. 419, a defendant was charged with driving in a manner dangerous to the public contrary to the Motor Car Act, 1903, s. 1, and with exceeding the speed limit of 20 m.p.h contrary to s. 9 of the same Act. The charge under s. 1 was taken first and he was convicted after evidence had been given that his speed (described by one witness as " terrific ") was 33 m.p.h. and that he had swerved dangerously, gone to the offside, etc. On the conviction being announced, the prosecutor desired to proceed with the charge under s. 9. The magistrate refused so to proceed, saying that he had taken the question of the speed into consideration as an element of danger on the first charge. The High Court upheld his decision in view of this fact. Had he not taken the speed into consideration or had he dismissed the charge under s. 1, seemingly he could properly have convicted on the charge under s. 9. Sometimes, a charge of dangerous driving and one of exceeding the speed limit, arising out of the same facts, will be heard together by consent. In *Williams* v. *Hallam* (1943), 112 L.J.K.B. 353, a person agreed to two charges (one under the Larceny Act and the other of unlawful possession under the Army Act) being tried together; the facts were substantially the same. It was held that he was precluded from objecting to being convicted and punished for both offences. In view of this case, it seems unlikely that the High Court would quash penalties inflicted in charges of dangerous or careless driving and speeding taken together.

Evidence of speed

The opinion of any witness as to a vehicle's speed is receivable, although the weight to be attached to such opinion will vary according to the witness's experience.

Witnesses who give an estimate of speed will often be asked in cross-examination whether they are themselves drivers and, if they are not, it will be suggested that their estimate is of much less value for that reason. One may doubt how far such a suggestion is a well-founded one. A person sitting in a rattly 1932 model two-seater will get a quite different impression of the speed he is going than he would if he were sitting in a 1956 model super roadster. Further, a person on foot will not necessarily be a good judge of another vehicle's speed if he has done nearly all his speed judging from a moving car. An interesting case is reported at 118 J.P. Jo. 105. Two police sergeants on foot saw a car being driven in a built-up area at a speed which one estimated at 50 m.p.h. and the other at 55 m.p.h. There was no evidence of readings by speedometer or stopwatch. The defendant was convicted of driving at a speed exceeding 30 m.p.h., the magistrates apparently holding that, while it would be unwise to accept the officers' evidence as to what the speed was, it was reasonable on that evidence to accept that it was in excess of 30 m.p.h., which was all that had to be proved. A spectator at Silverstone might not know whether a racing car was going at 90 m.p.h. or 120 m.p.h., but he would almost certainly know that it was going at more than 30 m.p.h.

Corroboration

By the Road Traffic Act, 1930, s. 10 (3), a person prosecuted for driving a motor vehicle at a speed exceeding the limit imposed by or under any enactment shall not be convicted solely on the evidence of one witness to the effect that, in his opinion, the defendant was driving at a speed exceeding that limit. In *Brighty* v. *Pearson* [1938] 4 All E.R. 127 a constable gave evidence as to the defendant's speed on one part of a road and another constable gave evidence as to his speed very shortly afterwards on another part of the same road. As obviously they did not testify as to his speed at the same moment of time, it was held that the constables did not corroborate each other. A speedometer can provide effective corroboration, even though it was not tested afterwards and the only witness is the constable who was driving the following police car and watching its speedometer at the same time (*Nicholas* v. *Penny* [1950] 2 K.B. 466). The High Court pointed out in that case that evidence of mechanical devices, such as stopwatches and speedometers, had been accepted for many years and it was in the discretion of the magistrates in every case whether or not to accept the evidence tendered. If, in their view, the police driver could not in the particular circumstances of the road conditions watch the road and the speedometer simultaneously and his evidence was therefore not entirely reliable, they could dismiss the case. The fact that the speedometer was not tested is again a matter which they may or may not in the circumstances feel is important; if the defendant's speed was, say, 20 m.p.h. in excess of the limit, generally the non-testing of the speedometer will not be important. The divisional court in *Nicholas* v. *Penny, supra*, did not follow *Melhuish* v. *Morris* [1938] 4 All E.R. 98 (where Lord Hewart, C.J., and Charles, J., had ruled that speedometer readings should be supplemented by evidence of the speedometer's accuracy) and said that those observations went too far; it was pointed out that only one side had been represented and relevant cases had not been cited.

The Road Traffic Act, 1930, s. 10 (6), deals with prosecutions against employers for inciting their drivers to exceed the speed limit. It reads:—

> "If a person who employs other persons to drive motor vehicles on roads publishes or issues any time-table or schedule or gives any directions, under which any journey or any stage or part of any journey is to be completed within some specified time and it is not practicable in the circumstances of the case for that journey or that stage or part of the journey to be completed in the specified time without an infringement of the provisions of this section, the publication or issue of the said time-table or schedule or the giving of the directions may be produced as prima facie evidence that the employer, as the case may be, procured or incited the persons employed by him to drive the vehicles to commit an offence under this section."

The penalty on employers who aid and abet or incite their drivers to exceed the limit is higher than the maximum for such drivers, being a fine of £50 on first conviction and £100 or three months' imprisonment or both on second or subsequent conviction.

Built-up areas

By the Road Traffic Act, 1934, s. 1, there is, as is well-known, a speed limit of 30 m.p.h. in built-up areas. Naturally, a vehicle which is, by reason of its class, limited to a lower speed cannot exceed that lower limit and go at 30 m.p.h. in a built-up area. A road is deemed to be in a built-up area if a system of street lighting furnished by means of lamps placed not more than 200 yards apart is provided thereon, unless a direction has been given that it is not to be subject to a limit. A road without such a system may be declared to be subject to the limit by the appropriate authority. Such latter roads will, of course, have the speed limit signs thereon. In *Gibbins* v. *Skinner* [1951] 2 K.B. 379 it was held that such signs are in themselves evidence that the limit applies to the length of road in question unless and until the defence call evidence that the limit has not been applied to that length.

The question may sometimes arise as to whether a system of street lighting is provided on a length of road where a lamp is missing, it having, for example, been knocked down. It is submitted that the court is only required to find that a "system" is provided on the length of road and generally a system continues to be provided although one lamp post may be down. Also, lamps are generally much closer to each other than 200 yards and it is most unlikely anyhow that the police would allege speeding in such a short stretch as the distance apart of three lamps.

Class of vehicle

The Road Traffic Act, 1930, s. 10 and Sched. I (as substituted by the Road Traffic Act, 1934, and amended by subsequent regulations), prescribe speed limits for motor vehicles of certain classes or descriptions with and without trailers and according to their tyres. Motor vehicles which are not mentioned in it, e.g., private cars without trailers, are not subject to a limit at all, save in a built-up area.

Passenger vehicles

These fall under para. 1 of Sched. I to the Act of 1930, as amended by the Motor Vehicles (Variation of Speed Limit) Regulations, 1955. The term means vehicles constructed solely for the carriage of passengers and their effects and, if a vehicle is not constructed "solely" for that purpose but can carry goods also, it is not a passenger vehicle (*Hubbard* v. *Messenger* [1938] 1 K.B. 300). The vehicle in that case

was a shooting brake, and so far as such vehicles, station wagons, Jeeps and Land Rovers are concerned, the Motor Vehicles (Variation of Speed Limit) Regulations, 1955, class them as dual-purpose vehicles, provided they comply with certain conditions; dual-purpose vehicles, as will be seen, are now not subject to a speed limit. But if a shooting brake did not fall within the definition of "dual-purpose vehicle," e.g., because its seats ran lengthways from front to back and not transversely, it would not be a passenger vehicle, as a shooting brake is constructed to carry goods as well as passengers.

"Constructed" seems to mean "constructed as at the time of the offence" (*Keeble* v. *Miller* [1950] 1 K.B. 601), but it will not suffice to show that another type has been "adapted" to become a vehicle usable solely to carry passengers and their effects. There must be a major reconstruction (*Burrows* v. *Berry*, 26th January, 1949, unreported but noted at 113 J.P. Jo. 492). Some help will be obtained on this issue from *Coleborn & Sons, Ltd.* v. *Blond* [1951] 1 K.B. 43, a purchase-tax case concerning an Army wireless truck converted to a shooting brake.

Buses and motor coaches are subject to a limit of 30 m.p.h.

An ordinary passenger-carrying car will not be subject to any general speed limit outside a built-up area provided that it (*a*) is not drawing a trailer, (*b*) has pneumatic tyres on all the wheels, (*c*) does not exceed 3 tons in unladen weight and (*d*) is not adapted to carry more than seven passengers exclusive of the driver. Note that in (*d*) the test is whether the vehicle is "adapted" to carry the excess passengers, not whether it is constructed to carry them. Paragraph 1 of Sched. I indicates the limits for other types of passenger vehicles.

Dual-purpose vehicles

Shooting-brakes, station wagons, utility vehicles, Jeeps and Land Rovers are dealt with by the Motor Vehicles (Variation of Speed Limit) Regulations, 1955. Such vehicles are usually constructed so that they can carry either goods or passengers, and therefore they would normally be classified as goods vehicles and be subject to a speed limit of 30 m.p.h. under para. 2 of Sched. I. The regulations provide in effect that vehicles of those types shall not be subject to any speed limit outside built-up areas, and this exemption applies whether or not they are carrying goods and whether or not they have A, B or C licences. The like-named regulations of 1950 were revoked by the 1955 ones, and the cases of *Manning* v. *Hammond* [1951] 2 All E.R. 815, *Blenkin* v. *Bell* [1952] 2 Q.B. 620 and *Woolley* v. *Moore* [1952] 2 All E.R. 797, which were based on the interpretation of the regulations of 1950, are no longer of authority.

To be subject to this exemption, a vehicle must fall within the definition of "dual-purpose vehicle" in the regulations of 1955; it must be constructed or adapted for the carriage both of passengers and of goods or burden of any description, not exceed two tons in unladen weight and either—

(*a*) satisfy the conditions as to construction specified in the Schedule to the regulations; or

(*b*) be so constructed or adapted that the driving power of the engine is, or by the appropriate use of the controls can be, transmitted to all the wheels.

The vehicles mentioned in (*b*) are Jeeps, Land Rovers and other cross-country vehicles. The conditions mentioned in (*a*) are:—

1. The vehicle must be permanently fitted with a rigid roof, with or without a sliding panel.

2. (1) The area of the vehicle to the rear of the driver's seat must satisfy the following requirements.

(2) It must be permanently fitted with at least one row of transverse seats, whether fixed or folding, for two or more passengers, and those seats must be properly sprung or cushioned and provided with upholstered backrests, attached either to the seats or to a side or the floor of the vehicle.

(3) It must be lit on each side and at the rear by a window or windows of glass or other transparent material having an area or aggregate area of not less than two square feet on each side and not less than 120 square inches at the rear.

3. The distance between the rearmost part of the steering wheel and the backrests of the row of transverse seats satisfying the requirements specified in sub-para. (2) of the last foregoing paragraph (or, if there is more than one such row of seats, the distance between the rearmost part of the steering wheel and the backrests of the rearmost such row) must, when the seats are ready for use, be not less than one-third of the distance between the rearmost part of the steering wheel and the rearmost part of the floor of the vehicle.

If a utility vehicle does not satisfy any one of the conditions mentioned in the Schedule to the regulations and is not saved under (*b*), then it is classified as a goods vehicle and subject to a limit of 30 m.p.h. under para. 2 of Sched. I to the Act of 1930, whether or not it is carrying goods and whether or not it has an A, B or C licence. For example, if a shooting brake has not a rigid roof or the second row of seats has been removed or the seats run lengthways instead of transversely, then it is not classed as a dual-purpose vehicle.

Where a utility vehicle does fall within the definition, it comes under para. 1 of Sched. I as a passenger vehicle, even when it is loaded with goods, and will generally be not subject to a limit. It will be subject to the same restrictions as passenger vehicles, however, e.g., when drawing a trailer or adapted to carry more than seven passengers exclusive of the driver.

Goods vehicles

The limits for vehicles constructed or adapted for use for the conveyance of goods or burden of any description are indicated in para. 2 of Sched. I to the Act of 1930; the limits vary according to the unladen weight or tyres, etc., of the vehicle and whether it is drawing a trailer. The test is whether the vehicle is constructed or adapted to carry goods or burden; if it is, it matters not whether it is "solely." The meaning of the term "adapted" is considered in a number of cases decided under the Customs and Inland Revenue Act, 1888, s. 4, which are set out in the English and Empire Digest, vol. 39, pp. 240–244. An example of adaptation would be removing the back seats of a private car completely; on the other hand, a private car not so adapted remains a passenger vehicle, even though it is carrying goods. A goods vehicle is subject to the limits indicated in para. 2 whether or not it is carrying goods or whether or not it has an A, B or C licence (*Bryson* v. *Rogers* [1956] 3 W.L.R. 495; *ante*, p. 569). The cases decided on the regulations of 1950 and mentioned above are no longer of authority.

"Goods" can include a window-cleaner's ladders and buckets (*Clarke* v. *Cherry* [1953] 1 W.L.R. 268; 97 Sol. J. 80) and "burden" sound-recording apparatus fixed to a vehicle (*Burningham* v. *Lindsell* [1936] 2 All E.R. 159).

The Schedule also covers motor-cycles adapted to carry goods or burden and goods vehicles exceeding 3 tons in unladen weight.

In *Tait* v. *Odham's Press* (1937), 26 Traff. Cas. 80, a case on the term " motor vehicle constructed or adapted for use for the carriage of goods " in the Road and Rail Traffic Act, 1933, s. 1, the High Court of Justiciary refused to upset the finding of magistrates that a van adapted for the carriage of passengers only and containing no shelves was not a goods vehicle.

Locomotives and motor tractors

These fall under para. 3 of Sched. I. These vehicles are those not constructed to carry a load or passengers and are subject to low limits.

Trailers and articulated vehicles

All types of motor vehicles are restricted as to speed when drawing a trailer, a term which means " a vehicle drawn by a motor vehicle " and covers caravans, goods-carrying trailers, broken-down vehicles on tow, movable huts and an empty poultry shed fitted with four iron bogie wheels (*Garner* v. *Burr* [1951] 1 K.B. 31 ; 94 Sol. J. 597). A car towing a two-wheeled caravan is subject to a limit of 30 m.p.h. under para. 1 ; in *Brown* v. *Dando* (noted only at 118 J.P. Jo. 319) the Divisional Court held on 29th April, 1954, that, where a car was towing a two-wheeled caravan with the aid of a small chassis with two wheels (called a " vandolly "), it was towing a four-wheeled trailer and was therefore limited to 20 m.p.h. Whether the regulations to be made relating to caravans with close-coupled wheels will extend to vandollies is not known. A four-wheeled vehicle being towed with two wheels in the air does not thereby become a two-wheeled trailer (*Carey* v. *Heath* [1952] 1 K.B. 70).

An articulated vehicle is a motor vehicle with a trailer so attached to the drawing vehicle that part of the trailer is superimposed upon the drawing vehicle, and when the trailer is uniformly loaded not less than 20 per cent. of the weight of its load is borne by the drawing vehicle. So runs the definition in the Motor Vehicles (Construction and Use) Regulations, 1955, reg. 3, and this definition can be taken as a good description of an articulated vehicle, though there is nothing sacrosanct about the figure " 20 per cent." in cases where the regulations do not apply. The Road Traffic Act, 1930, s. 2 (4) (*a*) and Sched. I, para. 2 (2) (*a*), say " a substantial part of the weight " and do not refer to uniform loading. An articulated vehicle is regarded for speed limit purposes as a goods vehicle drawing a trailer (see s. 2 (4) (*a*) of the Act of 1930) and must not therefore exceed 20 m.p.h. under para. 2 (2) (*Spiers* v. *Dobinson*, noted at 98 J.P. Jo. 26) ; in most cases it will matter not whether the tyres are pneumatic or soft or elastic, so long as they are not solid. The articulated vehicles which will be familiar to most people are the luggage vehicles of British Railways ; when the drawing unit, viz., the driver's cab, is driven on its own, it is subject to the same limit as a goods vehicle, according to its unladen weight.

Other motor vehicles

Schedule I to the Act of 1930 lays down a limit of 30 m.p.h. for horse-boxes, and exempts vehicles being used in the conduct of experiments or trials under the Roads Improvement Act, 1925, s. 6, although the latter vehicles remain subject to the limit in built-up areas. The Motor Vehicles (Variation of Speed Limit) Regulations, 1937, lay down a special limit for track-laying vehicles and vehicles drawing track-laying trailers, and the like regulations of 1940 provide similarly for gas-propelled vehicles. The Motor Vehicles (Authorisation of Special Types) General Order, 1955, also provides for low limits for the special types therein mentioned. Trolley vehicles are not subject to any speed limits in or out of built-up areas unless the special Act under which they operate so provides (Road Traffic Act, 1930, s. 1).

Military vehicles

The Motor Vehicles (Variation of Speed Limit) Regulations, 1947, and their amending regulations of 1954 provide that the limits laid down in Sched. I to the Act of 1930 shall not apply to certain types of vehicle owned by the Admiralty, War Department or Air Ministry or Visiting Forces (which now covers, in effect, the American forces) and used for naval, military or air force purposes. Ship salvage vehicles are also exempt from Sched. I under the regulations of 1947. All the vehicles mentioned in this paragraph are subject to the limit of 30 m.p.h. in built-up areas save so far as they are being used for fire brigade, ambulance or (possibly) police purposes. See next paragraph.

Fire and police vehicles and ambulances

By the Road Traffic Act, 1934, s. 3, vehicles being used for fire brigade, ambulance or police purposes are not subject to any speed limit either in a built-up area or under Sched. I if observance of the limit would be likely to hinder their use for the purpose for which they are being used on that occasion. Fire engines otherwise are classed as goods vehicles and " black marias " as passenger vehicles ; as ambulances carry stretchers, seemingly they are goods vehicles. How far this section applies to ambulances returning empty from a hospital, or to fire engines not going to a fire but going to fill the vacancy at another fire station caused by all its appliances being away at a fire, has not been determined. In *Strathern* v. *Gladstone* [1937] S.C. (J.) 11, it was held that a private person who was trailing a police car in the hope of obtaining enough evidence to prosecute its driver could not plead s. 3.

Having set out the various substantive provisions affecting speed limits, it remains to consider, in the second part of this article (to be published in a later issue), the procedure and evidence, etc., in prosecutions for offences under these provisions.

G. S. W.

Mr. F. C. M. Forward, assistant solicitor to the County Borough of Gloucester, has been appointed town clerk of Bridport in succession to Mr. G. S. Ashworth.

Mr. J. G. Hillier, deputy town clerk of Poole, has been appointed town clerk in succession to the late Mr. Wilson Kenyon.

Mr. Donald George Best, committee clerk and legal assistant in the town clerk's department at Windsor, has been appointed assistant solicitor to Leigh (Lancs.) Corporation.

The Lord Chancellor has made the following arrangements to take effect on 1st October, 1956 : (1) His Honour Judge Arthur Cohen shall cease to be one of the judges of the Barnet, Edmonton, Hertford, St. Albans and Watford County Courts (Circuit 38) and shall be one of the judges of the Marylebone County Court and additional judge at Bow. (2) His Honour Judge Alun Pugh shall cease to be one of the judges of the Marylebone County Court. (3) His Honour Judge Reid, M.C., shall cease to be additional judge at the Bow and Marylebone County Courts.

Company Law and Practice

THE MINORITY SHAREHOLDER'S ACTION—I

THE recent case of *Pavlides* v. *Jensen* [1956] 3 W.L.R. 224; *ante*, p. 452, has raised again the frequently litigated problem of when a shareholder may sue to recover damages for a wrong done to the company of which he is a member, or for an injunction to restrain the commission of such a wrong. His financial interest in bringing such an action is clear; if the company suffers a wrong its assets will undoubtedly be depleted thereby, and his shares will be worth correspondingly less. On the other hand, militating against his claim to sue is the technical rule that only the person who has suffered a wrong may sue in respect of it, and the separate legal personality of the company from that of its members (immortalised by the House of Lords in *Salomon* v. *Salomon & Co.* [1897] A.C. 22) produces the result that a wrong may be committed against the company without necessarily being committed against its shareholders, so that the shareholders are the real losers but cannot sue.

The solution of the problem is simple if shareholders with a majority of the voting power are in favour of the company suing. If the decision whether to sue or not is reserved by the articles of association to the shareholders, they may resolve to sue by an ordinary resolution, and an action with the company as plaintiff may then be instituted by one of their number (*Cotter* v. *National Union of Seamen* [1929] 2 Ch. 58). If the power to bring actions is delegated by the articles to the directors (as it is by the Companies Act, 1948, Table A, art. 80), the shareholders may either remove the board by ordinary resolution, if it will not sue, and replace it by one which will (Companies Act, 1948, s. 184), or direct the board to sue if a power of direction is reserved to the shareholders, but not if no such power is reserved (*Automatic Self-Cleansing Filter Syndicate Co., Ltd.* v. *Cuninghame* [1906] 2 Ch. 34), and Table A, art. 80, contains no such reservation (*John Shaw & Sons (Salford), Ltd.* v. *Shaw* [1935] 2 K.B. 113, 134).

Difficulties arise, however, when a shareholder who does not control a majority of the voting power wishes to sue and cannot show that sufficient other shareholders share his desire so that shareholders with a majority of the voting power are in favour of suing. Subject to certain exceptions, the individual shareholder cannot bring an action at all because of the rule in *Foss* v. *Harbottle* (1843), 2 Hare 461, which (except where powers are delegated to the directors by the articles) requires a resolution to be passed by the shareholders in general meeting before any act is done on behalf of the company, whether involving litigation or not. It was this rule which prevented the plaintiff in *Pavlides* v. *Jensen* from pursuing his action. He held a minority holding of deferred shares in the company, none of which carried voting rights; and over 96 per cent. of the ordinary shares, which alone carried voting rights, were held by a holding company whose directors also constituted the board of the company. The plaintiff's action was brought to compel the directors to compensate the company for loss it had suffered by the sale of one of its assets at an alleged undervalue; the plaintiff did not allege that the directors had acted fraudulently in effecting the sale, but merely that they had been negligent. On the trial of the preliminary issue whether the plaintiff could sue at all for the alleged wrong, the plaintiff contended (*a*) that as his shares carried no voting rights he could neither requisition a meeting of shareholders nor vote at it, and therefore the only way in which his interests could be protected was by the intervention of the court, and (*b*) that the defendant directors were able to control the voting at a meeting of shareholders by voting on the shares held by the holding company, and, unless the court intervened, they might prevent any action being brought against them by the company, however many other shareholders might wish it. Danckwerts, J., held against the plaintiff on both points; he applied the rule in *Foss* v. *Harbottle* and found that the plaintiff's case fell within none of the exceptions to it. Obviously, the protection afforded by the law to a minority shareholder will depend on the breadth of these exceptions, and it is now proposed to examine them.

Ultra vires or illegal acts

If the wrong complained of has involved the company in doing an act which is *ultra vires* its objects specified in its memorandum of association, or which is illegal, because, for example, it conflicts with a requirement of the Companies Act, an action may be brought either by a shareholder suing in his own right (*Simpson* v. *Westminster Palace Hotel Co.* (1860), 8 H.L. Cas. 712; *Hoole* v. *G.W.R. Co.* (1867), L.R. 3 Ch. 262) or by a shareholder suing on behalf of himself and all the other shareholders (*Foss* v. *Harbottle*), but the company must always be made a defendant so that it may be bound by the court's judgment and may enforce any order for the payment of damages or the restitution of property to it made against a co-defendant (*Spokes* v. *Grosvenor Hotel Co.* [1897] 2 Q.B. 124). This exception to the rule in *Foss* v. *Harbottle* is often explained on the ground that an *ultra vires* or illegal act cannot be ratified by a resolution of the shareholders in general meeting. The explanation is plausible if the rule is taken to be that the court will not interfere where the wrong complained of may be legalised or regularised by a resolution in general meeting, and it has been stated in this form in a number of cases (*Foss* v. *Harbottle*; *Mozley* v. *Alston* (1847), 1 Ph. 790; *MacDougall* v. *Gardiner* (1875), 1 Ch. D. 13). It is easier to reconcile the exceptions to the rule and to give coherence to them if the rule is regarded as a prohibition against proceedings being brought by a shareholder to enforce a right belonging to the company unless the proceedings are sanctioned by a resolution in general meeting. The question then is simply: do shareholders with a majority of the voting power wish to sue or not? The right of a minority shareholder to sue in respect of an *ultra vires* or illegal act without the support of the majority voting power then becomes a true exception to the rule, but one which is patently justified if companies are ever to be restrained from engaging in *ultra vires* transactions or flouting the requirements of the Companies Act, many of which are expressly designed to protect the minority shareholder.

Fraud or oppression by majority

The second exception to the rule is where the plaintiff shareholder has been subjected to fraud or oppression by shareholders who possess the majority voting power. Thus, where the majority shareholder had procured the passing of a resolution exonerating a trustee for the company from liability for delivering the trust property to the majority

shareholder, minority shareholders were held entitled to sue (*Menier* v. *Hooper's Telegraph Works* (1874), L.R. 9 Ch. 350). Again, where majority shareholders procured a resolution altering the articles of the company so that they might purchase the shares of a minority shareholder compulsorily and thus gain exclusive control over the company, the minority shareholder was granted an injunction to restrain such oppression (*Brown* v. *British Abrasive Wheel Co.* [1919] 1 Ch. 290). In such cases the minority shareholder must sue on behalf of himself and all the other shareholders except the defendants, so that the other shareholders may be bound by the judgment (*Russell* v. *Wakefield Waterworks Co.* (1875), L.R. 20 Eq. 474), and the company must be joined as a co-defendant. The explanation of this exception is clear. The conduct of the majority shareholder indicates that he would defeat any resolution to sue in respect of it, and, although a shareholder may consult only his personal interests in voting and not those of the company as a whole (*British America Nickel Corpn.* v. *O'Brien* [1927] A.C. 369), it would be inequitable for him thus to protect a personal interest acquired by fraud or oppression and knowingly to inflict harm on his fellow shareholders.

The remaining exceptions to the rule in *Foss* v. *Harbottle* will be considered in a later issue.

R. R. P.

A Conveyancer's Diary

"DESCRIBED IN THE PLAN ANNEXED HERETO"

WHEN a plan is annexed to a conveyance the written parcels in the body of the deed commonly state either that the property is more particularly described in the plan, or that the property is shown in the plan for purposes of identification only. The meaning and effect of the phrase "more particularly described," etc., is now beyond all reasonable doubt, as the criminal lawyers say, although it is not generally appreciated that they were not fixed until this century. The meaning and effect of describing a property in an annexed plan "for purposes of identification only" do not appear to be so widely realised; and in addition there is some doubt, according to the only authority which I know of on the matter, as to what these or similar words may mean. Both these points are illustrated by reference to the case of *Eastwood* v. *Ashton* [1915] A.C. 900.

The question was whether a certain strip of land, very small comparatively in area, but important because it could have afforded convenient access to a part of the property, had been conveyed to the appellant by a certain conveyance. The property was conveyed as follows: (1) as all that farm with the messuage, etc., called Bank Hey Farm, situate in the parish of Blackburn; (2) as containing 84 acres, 3 rods and 4 perches or thereabouts; (3) as in the occupation as to part thereof of *T. H.* and as to the remainder thereof of *C. W. C.*; and (4) as more particularly described in the plan endorsed on the conveyance and therein delineated and coloured red. The extrinsic evidence (according to Lord Parker's opinion) revealed the following facts. The farm called Bank Hey Farm was at the date of the conveyance wholly in the occupation of *T. H.* It had, however, in times past comprised, besides other parcels of land, (1) a piece of land which at the date of the conveyance was let to *C. W. C.*, and (2) a small parcel of land which was the land in dispute. *C. W. C.'s* holding was not, however, at the time of the conveyance wholly in his occupation; he occupied part of it, but had sub-let the remainder and his sub-tenants were in occupation of that. With regard to the disputed strip of land, neither *T. H.* nor *C. W. C.* had any interest therein. On the other hand, both *C. W. C.'s* holding and the disputed strip were, together with Bank Hey Farm, described, delineated and coloured red on the plan endorsed on the conveyance. As to the description by acreage, the evidence was that it was possible, in the case of a piece of land of this size, for measurements taken by two separate surveyors to differ by 500 square yards.

The Court of Appeal had held that the disputed strip was not comprised in the conveyance, and that the purchaser was not therefore entitled to complain when he found, as he did find, that this strip was in the occupation of strangers who had acquired a statutory title thereto. They arrived at this conclusion on the principle which had been stated by Parke, B., in *Llewellyn* v. *Earl of Jersey* (1843), 11 M. & W. 183, in the following words: "As soon as there is an adequate and sufficient definition, with convenient certainty, of what is intended to pass by a deed, any subsequent erroneous addition will not vitiate it; according to the maxim *falsa demonstratio non nocet.*" The description of the property as being in the occupation as to part thereof of *T. H.* and as to the remainder thereof of *C. W. C.* appeared, to the Court of Appeal, to be an adequate and sufficient definition for the purposes of this rule, and this description was adopted as defining the property comprised in the conveyance and the plan was disregarded.

Plan controls description

The House of Lords reversed this decision, on the ground that the plan was part of the description and could not be disregarded. As the evidence showed that all the first three ways in which the property had been described (as Bank Hey Farm, as containing a certain acreage, and as occupied by certain persons) were all unreliable guides to the definition of the property, the plan prevailed, and the purchaser was held to be entitled to damages for breach by the vendor of the latter's implied covenant of good right to convey.

Whether the effect of this decision has been to reverse by implication the rule (which was an old one) in *Llewellyn* v. *Earl of Jersey*, or whether that rule was found to be inapplicable to the particular facts of the case, is neither very clear nor very important. What is important is that when one finds the phrase "more particularly described" etc., in the written parcels in a conveyance (and the same applies to the written particulars in a contract for sale), it is to be taken to mean what it says: the plan then controls the description as a whole.

Plan for identification purposes only

As regards a plan annexed for purposes of identification only, I will refer again to Lord Parker's opinion in *Eastwood* v. *Ashton*. He referred to a recital in the conveyance to the effect that the property was described as Lot 4 in the particulars of a certain sale by auction, and went on: "Where there is an ambiguity in the operative part of an indenture, recourse may be had to the recitals to see whether they throw any light on the matter. Your Lordships are therefore at liberty to inquire what hereditaments were

described as Lot 4 at the sale in question. Referring to the particulars used at this sale, your Lordships will find that Lot 4 is referred to as being the land coloured pink on plan No. 1, and on reference to this plan it will be found that the land thereon coloured pink is the same as that coloured red on the plan indorsed on the conveyance, and includes the whole of [*C. W. C.'s*] holding and the disputed strip. Plan No. 1, however, contains a note to the effect that it is reproduced from the ordnance map, and is intended only for the purpose of indicating the position of the property, and is not to be deemed part of the contract of sale. If this were a question of specific performance of a contract entered into at the auction, it may well be, therefore, that no reliance could be placed on plan No. 1; but the question is what lands were described as Lot 4 at the auction, and in my opinion your Lordships are at liberty in considering this question to look at plan No. 1, at any rate for the purpose of ascertaining the position and situation of the lands so described."

If, then, property is stated in the body of a conveyance to be described in an annexed plan "for purposes of identification only," it may be referred to for the purpose of ascertaining the position and situation of the property; and that is the proper use of a plan annexed with this expressed purpose in view. (The words used in the plan in question in *Eastwood* v. *Ashton* would to-day be rendered "for purposes of identification only," or the like.) The verbal description of the parcels must, in such a case, be as full in such matters as dimensions and boundaries as if no plan was annexed to the conveyance at all. This may sound very trite, but I have come across several cases in practice recently in which the parcels referred simply to "all that property for purposes of identification shown as coloured red in the plan annexed hereto," or the like, and in which some surprise was felt when it was suggested that on the face of it this amounted to no description of the property at all.

As to the hypothetical case put by Lord Parker, that of an action for specific performance of a contract for the sale of land described in the particulars "for purposes of identification only" by reference to an annexed plan, the suggestion that the plan could not be referred to at all may be due to the particular wording of the legend on the plan in question. But I have heard it suggested that this *dictum* goes further, and that there is or may be some inherent difficulty in relying on a plan annexed to a contract of sale for identification purposes only. I do not think so, but doubts of this kind afford material for objections and correspondence where a dispute concerning the parcels arises. Trouble of this kind can only be avoided if as much care is taken in describing the property, whether in particulars of sale or in a conveyance, as is expended in ascertaining whether the property is free from incumbrances or, if not, what the incumbrances are. That is not always done to-day.

"A B C"

Landlord and Tenant Notebook

AUTHORITY TO SIGN NOTICE

THE facts of *London County Council* v. *Farren* [1956] 3 All E.R. 401 (C.A.) were out of the ordinary, and on first looking at the report I felt that I might be reproached with parochialism if I discussed the decision in the Notebook. But, though the effect of a change in administrative arrangements of the London County Council was one of the points mentioned, and interpretation of one of the provisions of the London Government Act, 1939, played a part in the decision, larger questions were raised; and the case contributes to the general law relating to authority to give and to sign notices and relating to the proof of such authority.

The council had let premises, which must have been business premises within the scope of Pt. II of the Landlord and Tenant Act, 1954, by a written agreement determinable by one month's notice expiring at any time. The tenancy had commenced in September, 1953, but, the premises being apparently business premises, Pt. II of the Landlord and Tenant Act, 1954, applied to them.

When determined by the council, the tenancy was, by the agreement, to be so determined "by a written notice signed by the director of housing and valuer to the council."

Early in 1955, the council wished to terminate the tenancy. Those concerned were clearly aware of the change brought about by the Landlord and Tenant Act, 1954: a month's notice to quit would not do. They prepared a proper six months' landlord's "notice to terminate," duly requiring their tenant to state in writing whether he would be willing to give up possession and that an application for a new tenancy would be opposed on the ground of intention to demolish. At the head it stated that it was given by one Mr. *T*, "valuer and agent to the London County Council," and *T* signed it. There was no mention of his having been authorised to sign it. The tenant did not vacate and the council, presumably qualified by the Housing Act, 1936, s. 156 (*2*), to avail themselves of the summary procedure provided by the Small Tenements Recovery Act, 1838, applied for a warrant under the latter.

The hearing of the complaint

When the matter came before the metropolitan magistrate, it seems that the council's representative must have been blissfully ignorant of the circumstance that notice of termination had been given in accordance with the Landlord and Tenant Act, 1954, Pt. II. The point taken by the respondent was simply that his tenancy had not been terminated by a written notice signed by the director and valuer to the council. For, since the agreement was made, the council had subdivided the director-and-valuer department into separate departments: the contention was that both director and valuer must sign if the notice was to be valid, and the valuer was the only signatory.

The magistrate refused the warrant and stated a case in which he said: "I was of opinion that said notice was bad because it was not given and signed both by the director of housing and by the valuer . . . and that in any event the notice was not signed by the director of housing or by anyone on his behalf."

The decision on this point, as will be seen, did not affect the ultimate result. But it draws attention to the necessity for exercising imagination and foresight when inserting clauses—which it was very sound to insert—relating to notices

to quit. Sometimes, of course, Acts of Parliament contain " consequential amendments " or other provisions which will meet the case of the abolition of some office, etc. (the Small Tenements Recovery Act, 1838, itself insists on a hearing by two or more justices; twenty years later the Stipendiary Magistrates Act, 1858, s. 1, authorised a stipendiary to do alone what any statute authorised to be done by two magistrates). On other occasions the Legislature has itself shown vision: any client who, perhaps after a visit to the local reference library, comes in and asks that a headborough or borsholder be called to his assistance as he proposes to break into premises and seize goods fraudulently carried away to prevent distress, can be told that 11 Geo. II, c. 19, s. 7, also mentions the constable " or other peace-officer " of the hundred, borough, parish, district or place.

The Divisional Court hearing

When the case stated came to be heard, the council shifted its ground. The line taken might be expressed: " Oh, but we are not concerned with a notice to *quit*. What the learned magistrate said about the *contractual* question may be perfectly sound. But this was a notice to *terminate*, and the position is regulated by *statute*. That being so, the London Government Act, 1939, s. 184 (1), applies: ' any notice . . . which a local authority is authorised or required by or under any enactment to give, make or issue may be signed on behalf of the authority by the clerk of the authority or by any other officer of the authority authorised by the authority in writing to sign documentsof the particular kind or the particular document, as the case may be.' The Landlord and Tenant Act, 1954, is an enactment; *T* was an authorised officer; Q.E.D."

But answers were available. It was pointed out, for one thing, that there may be a difference between, but there is no violent contrast between, notices to quit and notices to terminate; s. 25 of the Landlord and Tenant Act, 1954 (landlord's notice to terminate) insists, for instance (subs. (3)(*a*)) that the date of termination shall not be earlier than the earliest date at which the tenancy could have been terminated under the contract.

But more cogent was the answer afforded by subs. (2) of s. 184 of the London Government Act, 1939, on the first subsection of which reliance had been placed. Subsection (2) says: " Any document purporting to bear the signature of the clerk of the authority or of any officer *stated therein* to be duly authorised by the authority to sign such a document or that particular document, as the case may be, shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the local authority."

The notice to terminate had not stated that *T* was authorised to sign that sort of document or that document.

Shifting its ground again, the council fell back on the general proposition that, if a document was signed by an agent for a landlord and signed as agent, the document was a good notice. There is, indeed, ample support for that proposition (e.g., *Jones* v. *Phipps* (1868), L.R. 3 Q.B. 567); but the difficulty was that no evidence of *T*'s authority to sign the document had been tendered to the magistrate.

In the Court of Appeal

A belated attempt to overcome that difficulty when the matter came before the Court of Appeal proposed: why not remit the case to the magistrate so that he could decide, on further evidence, whether or not *T* was authorised to give such notices or that particular notice?

The attempt had not been made at the Divisional Court stage, and the Court of Appeal doubted whether it would have succeeded if it had been made. For, as was pointed out, the provisions of the Summary Jurisdiction Act, 1857, s. 6, as amended by the Magistrates' Courts Act, 1952, s. 131 and Sched. V, did no more than authorise the court to hear and determine the question or questions of law arising *thereon*, i.e., on the transmitted case; and the only question raised by the case stated was whether the notice was good having regard to the fact that the valuer was the only signatory. No case had been put for him arising under the Landlord and Tenant Act, 1954, ss. 24 and 25. Apart from that, the Court of Appeal considered that they ought not to entertain an application made for the first time before themselves.

Those who have read and enjoyed " Sandford of Merton " may be reminded of the vivid description of an Oxford *v.* Cambridge football match, in which it was Oxford's turn to play eleven men, while Cambridge fielded a side of fifteen. The London County Council, having fought their tenant unsuccessfully under common-law rules, were seeking to establish that the contest had been governed by those of a statute.

R. B.

HERE AND THERE

NO ROOM AT THE INN

THERE's something in the atmosphere of England that hushes, even if it does not smother, the liveliest indignation at bad or ill-directed service. It's so unpleasant to make a row, and what good does it do anyway to try to shake the fixed belief that all is for the best in the best of all possible countries? So it is that we accept as a *fait accompli* the decline and fall of the English inn from its hostelarian destiny and its duty under the law. It is only when one travels abroad a little (not wealthy cosmopolitan travelling or travel agency herd migration for the masses, but modest individual human contact travelling) that one meets real live inns, so that one wonders furiously what on earth the law of England has been up to in letting English innkeepers (or, more often, the managers and tied tenants of the big breweries) slither out of the performance of the very functions of hospitality for which inns exist, the provision of food and lodging for travellers. Quietly and without any effective reaction by the courts, the licensing justices or anyone else, they have been allowed to treat their legal obligations as a matter of discretionary benevolence, forcing the wretched public to make do with ye olde ladylike tea and luncheon rooms or greasy, fly-blown coach and truck pull-ins for food and with boarding-houses for lodging. Of course, there are the great inns and hotels up and down the country for the wealthy and the fairly wealthy, some beautifully run, others showily run (for travellers with more money than sense) to cover up bad service and indifferent food. There are the commercial hotels, mostly in biggish centres. But the village inn, the small town inn, the ordinary inn where the modest traveller can eat or lodge just because he happens to have arrived there, has almost ceased to exist. The dishonest legal fiction that a sandwich is a meal can,

and mostly does, reduce food to a sliver of ham or cheese between two emaciated slices of those ready-cut loaves sold to people who are too lazy to use a bread knife. As for putting you up, "Oh, no, we don't let rooms," and no one dreams of telling the landlord that he's got to, that it's part of his professional obligation before the law.

BY WAY OF COMPARISON

THIS state of affairs compares odiously with the way they manage things in the little Swiss village where I happen to be writing, a village with a very full farming life of its own and well off the main tourist tracks. It manages to support very nicely four inns, at all of which the traveller can feed and lodge. At the Bunch of Grapes, which is typical, there is a large general bar-room on the ground floor with ten plain solid wooden tables seating two or three a side. The chairs that go with them are plain and solid, too. The decorations are plain, a few chamois' heads and a case of cups and medals won locally for shooting, the Swiss national sport. On a row of hooks the current newspapers and magazines hang in stiff folders or stretchers. There are no morning or afternoon closing times, since the Swiss can mostly be trusted to drink in decent moderation. The courts can sentence habitual drunkards to be debarred from licensed premises and a printed list of the names, addresses and occupations of the disqualified drinkers hangs in every bar. At the Bunch of Grapes, if you want a meal, a cheerful square of oilcloth is put before you to protect the polished surface of the table. You are given first a tureen of rich soup, the contents of which would fill two and a half soup plates. You can take the lot if you like. The main course arrives in an oval metal dish about nine inches long with meat in the middle and deliciously cooked vegetables at either side. You can empty it if you like. In support, there is a little bowl of salad and as many great slices of bread as you want, not the silly, thin little squares which English caterers dole out so reluctantly. Finally, there is a tiny dish of stewed fruit and cream or a pear or an orange or a meringue. If you prefer not to eat in the bar there is a dining-room upstairs, pleasantly but not elaborately furnished. So everyone is happy and everyone is provided for. The three neighbouring smaller villages have another inn each.

CHANGE OF HEART

Now, if every innkeeper (or his brewer landlord) had a miraculous change of heart overnight, it would take a lot of time and practice and reorganisation to reach that standard of simple perfection; but there is not a single public house, however primitive, which can have any excuse for being unable (at the worst) to serve up on demand a dish of bacon and eggs with tinned peas and tinned fruit to follow. As for the appointments, the average traveller wants substance, decently presented, not style; so, strictly, all the appointments of a well-furnished dining room—linen table cloths and good cutlery—are superfluous; nice enough if they can be managed, but food comes a long way first. The brewers, the police, the licensing justices and the courts among them could restore the status of the English inn if they cared to. So could the public by complaining, denouncing, reporting and never taking "no" for an answer. But it would be a terrible struggle. There are always so many plausible excuses for not bothering.

RICHARD ROE.

A TANGLED SKEIN

THE complainant was a young French lady who had come to England as a nursemaid and whose charms had excited the ardours of a young man from Kenya over here studying law. After a few months, the advent of a baby became imminent, and for the birth the French lady retired temporarily to Paris. Delivery being successfully accomplished, she returned with the child to England and applied to a metropolitan magistrate for a summons for affiliation, confident of the successful issue of her plea because the baby had the same blue-black plum colour of its father. But, unfortunately for her, she had overlooked *R.* v. *Blane* (1849), 13 Q.B. 769, in which more than a hundred years before another of her attractive countrywomen had been concerned and there the judges had held that a bastardy order could not be made on a putative father in respect of a child born abroad of an alien mother domiciled in France, although the mother became pregnant while domiciled and resident in England and returned to England with the child shortly after its birth. This was followed in the case of *Tetau* v. *O'Dea* [1950] 2 All E.R. 695; 114 J.P. 499, where the woman was German and the child was born in Hamburg.

An attempt was made to differentiate between these cases and the present application by saying that the French lady intended to make England her home in future and could therefore claim to be domiciled in England. The magistrate, however, pointed out that the important question was not what were the lady's future intentions, but what was her status at the time the child was born. Clearly she was a French national. She came here on a French passport and had been admitted by the aliens authorities for a limited period and under definite restrictions with regard to her employment. An English domicile could not, therefore, be established in such circumstances.

The magistrate thought, however, that the woman could possibly succeed if she took proceedings under the Guardianship of Infants Acts. Here there were no limitations imposed by nationality or domicile and the one question was: Did these Acts apply to illegitimate children as well as to legitimate children? The Acts speak of infants and mothers and fathers, not of husbands and wives, and s. 9 of the Guardianship of Infants Act, 1925, applied equally to the illegitimate as to the legitimate. The force of this argument is not lessened by the fact that s. 9 has now been replaced by the Marriage Act, 1949, s. 3.

So the lady was granted a summons under the Guardianship Acts and all seemed set for the hearing of a most interesting case which might make revolutionary changes in our bastardy laws and procedure. Unfortunately, the law student from Kenya got to hear of what was afoot and, without the slightest consideration for the interests of the profession which he aspired to enter, decided post-haste to go home and thus avoided service of the summons. Nevertheless, if the lady can discover his whereabouts in the dark continent, she may still find means of pursuing her claim under the Maintenance Orders (Facilities for Enforcement) Act, 1920, which would allow an order to be made provisionally in London and confirmed and enforced in Kenya.

F. T. G.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal".]

The Notary Public

Sir,—When your contributor of the article "Appointment of Notaries" wrote, in February last, ". . . even within the legal profession the office is shrouded in some mystery," as a general notary who had not long left the precincts of a notary's office, I did not fully appreciate the significance of such a statement. But then my articled days had been spent in a naval port where notaries are both familiar and highly specialised. To-day my experiences have taught me reality.

Practising as I do in an area where, to say the least, notaries are not familiar, I have been somewhat surprised at some firms of solicitors' interpretation of the functions of a notary public. This is especially so when it comes to having documents intended for use abroad attested, i.e., authenticated by a notary. Recently I was obliged to query as to why an unattested and, in fact, unwitnessed Canadian power of attorney had not only been accepted as valid, but been returned to the attorney for future use. The solicitor involved had not thought it necessary to pass the document through the hands of a notary, British or Canadian.

Again, a more common error is the confusion between the "*ad hoc*" commissioner for oaths and the ordinary commissioner for oaths. *A fortiori*, the belief that if a document is attested by an ordinary commissioner it is voidable but valid if attested by a notary public, so that sometimes it is left to the client to decide at leisure whether to indulge in the luxury of a notary or not.

Now what are the facts? Notaries since early Roman days have been given international recognition owing to the ease of verifying their work and authority through the world's foreign service or in the case of the Commonwealth through Westminster. As a general rule, apart from their own special commissioners, most countries outside the United Kingdom require notarial authentication before they will treat British private documents as valid. However, whether by Governmental arrangement or in the conciliatory spirit of this day and age some countries will, in practice, accept documents not so attested. As to which, when and by whom is a matter of not inconsiderable research.

From this it will be appreciated that the simple ukase, "When preparing a document for use abroad get a notary to attest it and be safe," is one to be regarded as being in the client's interest.

"SOLICITOR AND NOTARY."

Essex.

REVIEWS

Hanson's Death Duties. Tenth Edition. By HENRY E. SMITH, LL.B. (Lond.), Assistant Controller of Death Duties. 1956. London: Sweet and Maxwell, Ltd. £6 6s. net.

It is not without interest that the first edition of this book was published over ninety years ago and nearly thirty years before estate duty was invented. As a result of the discontinuance of legacy duty and succession duty it has been possible in this edition to treat them in an outline manner, leaving those unfortunate enough to require more detail to go to the ninth edition. Accordingly the whole of this handsome volume is devoted to estate duty.

Hanson has always taken the form of a section-by-section commentary on the statutes. Your reviewer has always preferred it thus and regards it as the best book in which to find the answer to any specific query, but it cannot be denied that now the number of statutes is approaching fifty this method cannot possibly produce a connected narrative in logical order, with the result that the book is hard going for the reader who is unfamiliar with its subject-matter. The author has made a bold attempt to overcome this difficulty by devoting some 165 pages to an outline account of estate duty law and practice, which is admirable, cross-referenced to the main and detailed account, which occupies some 950 pages. Such initiative deserves to succeed, but it is doubtful if it does or if it ever could: he who wants the commentary most probably does not need the summary: he who wants a narrative account would probably prefer to have narrative all the way. Really there is no solution to the dilemma until the estate duty enactments are codified as the income tax enactments have been codified.

The present editor, who was one of two editors of the ninth edition, is a distinguished member of the staff of the Estate Duty Office, but he has been at pains in his book not to regard the "official" view as being necessarily correct, and indeed the practitioner will find more material for controverting the "official" view in this book than in some others. Despite the excellence of Mr. Smith's editing—and much of the material has been revised and improved particularly in the interests of clarity of exposition—one cannot help regretting that there is now no large-scale book on estate duties which, being the work of a member of the Bar, can strictly and properly be quoted in court.

The whole book is now divided into numbered paragraphs and much use is made of cross-headings (in many cases followed by a summary of what is to come) and of varied founts of type, all of which are a very great improvement upon the past and make the book very much less forbidding and very much easier and pleasanter to use.

In short we think that both in its matter and its manner this edition is a worthy successor to, and, indeed, an improvement on, its predecessors and is to be recommended to everyone who concerns himself at all seriously with estate duty.

Clean Air. Supplement to the *Leeds Journal*, September, 1956. Leeds: The Leeds Incorporated Chamber of Commerce. 5s. net.

This pamphlet of 144 pages (of which almost half are devoted to advertisements) is described as the "first comprehensive elementary hand-book of the clean air legislation." It starts with a readable and workmanlike abstract of the Clean Air Act, 1956, covering six pages. This is substantially accurate (although under s. 12 the authority *must*—not "may"—reimburse to the owner or occupier at least seven-tenths of his approved expenditure incurred in adapting an existing fireplace in a private dwelling in a smoke control area), and should prove most helpful, although it should have been clearly stated that the Act still awaits the Order (or Orders) of the Minister before it comes into force.

The rest of the book is taken up with a number of technical articles on a variety of subjects, such as "Clean Air and Industrial Fuel Efficiency," "The Measurement and Arrestment of Grit and Dust," and "Research Problems in Air Pollution" (wherein the weakness of the 1956 Act, in that it is not concerned "directly with sulphur dioxide and other gaseous pollutants," is recognised). These are quite readily intelligible to the non-scientist, and should prove of interest to those of our readers who may have industrial clients concerned with the problems of air pollution.

Mr. DAVID LLOYD HUGHES, assistant solicitor to Anglesey County Council, has been appointed town clerk of Holyhead in succession to Mr. A. Jones, who has been appointed to a research lectureship in Leeds.

Mr. R. T. D. WILLIAMS, B.A., LL.B., senior assistant solicitor in the town clerk's department, Wolverhampton, has been appointed to the same post at Ilford. He will be succeeded by Mr. I. A. CLEGG, LL.B., at present second assistant solicitor.

IN WESTMINSTER AND WHITEHALL

STATUTORY INSTRUMENTS

Bournemouth and District Water Order, 1956. (S.I. 1956 No. 1431.) 5d.

Chancery of Lancaster (Court Fees) Order, 1956. (S.I. 1956 No. 1426 (L.17).) 5d.

This order, coming into operation on 1st October, 1956, brings the court fees on sealing a writ or originating summons in the Chancery Court of Lancaster generally into line with those prescribed in the Supreme Court by the Supreme Court Fees (Amendment) Order, 1956. Similarly, the fee on entry or amendment of appearance is abolished. Minor amendments are also made to other fees.

Chancery of Lancaster Rules, 1956. (S.I. 1956 No. 1425 (L.16).) 8d.

These rules, which come into operation on 1st October, 1956, make the necessary amendments to the rules of procedure of the Court of Chancery of the County Palatine of Lancaster to give effect to the Crown Proceedings (Court of Chancery of Lancaster) Order, 1956.

Hydrocarbon Oil Duties (Drawback) (No. 1) Order, 1956. (S.I. 1956 No. 1412.) 5d.

Import Duties (Exemptions) (No. 10) Order, 1956. (S.I. 1956 No. 1432.)

Import Duties (Exemptions) (No. 11) Order, 1956. (S.I. 1956 No. 1433.) 5d.

Import Duties (Exemptions) (No. 12) Order, 1956. (S.I. 1956 No. 1434.) 5d.

Licensing of Boars (England and Wales) Regulations, 1956. (S.I. 1956 No. 1428.) 8d.

Licensing of Bulls (England and Wales) Regulations, 1956. (S.I. 1956 No. 1427.) 8d.

Live Poultry (Restrictions) (Amendment) Order, 1956. (S.I. 1956 No. 1439.) 5d.

Nurses (Regional Nurse-Training Committees) (Scotland) Order, 1956. (S.I. 1956 No. 1422 (S.71).) 7d.

Official Secrets (Prohibited Place) Order, 1956. (S.I. 1956 No. 1438 (S.72).)

Oil in Navigable Waters (Ships' Equipment) (No. 1) Regulations, 1956. (S.I. 1956 No. 1423.)

Stopping up of Highways (Birmingham) (No. 7) Order, 1956. (S.I. 1956 No. 1414.) 5d.

Stopping up of Highways (Eastbourne) (No. 1) Order, 1956. (S.I. 1956 No. 1415.) 5d.

Stopping up of Highways (Herefordshire) (No. 4) Order, 1956. (S.I. 1956 No. 1416.) 5d.

Stopping up of Highways (Leicestershire) (No. 21) Order, 1956. (S.I. 1956 No. 1417.) 5d.

Stopping up of Highways (London) (No. 35) Order, 1956. (S.I. 1956 No. 1418.) 5d.

Stopping up of Highways (Nottinghamshire) (No. 5) Order, 1956. (S.I. 1956 No. 1419.) 5d.

Stopping up of Highways (West Riding of Yorkshire) (No. 18) Order, 1956. (S.I. 1956 No. 1400.) 5d.

Town and Country Planning (County Borough of Eastbourne) Development Order, 1956. (S.I. 1956 No. 1424.) 6d.

Wages Council (Rubber Proofed Garment Making Industry) Order, 1956. (S.I. 1956 No. 1437.) 5d.

[Any of the above may be obtained from the Government Sales Department, The Solicitors' Law Stationery Society, Ltd., 21 Red Lion Street, London, W.C.1. The price in each case, unless otherwise stated, is 4d., post free.]

POINTS IN PRACTICE

Moneylender—Meaning—Discounting Bills of Exchange

Q. Is a person who discounts bills of exchange deemed to be a moneylender within the meaning of the Moneylenders Act? We observe from the fourth edition of "Meston on the Law Relating to Moneylenders," at p. 19, that apparently a person who is in the habit of cashing seamen's advance notes is not a moneylender, although, apparently, there is no direct authority on this point, and we wonder, therefore, if the same provision has been or can be applied to the discounting of bills of exchange.

A. The whole definition of "moneylender" in s. 6 of the Act of 1900 should be looked at. Even the direct lending of money does not cause a man to be deemed a moneylender unless (1) his business is that of moneylending or he holds himself out as engaging in moneylending as a business, and (2) he does not fall within any of the exceptions mentioned later in the section. If the question relates to one who *carries on a business of discounting bills* of exchange, the answer, on the wording of the statute, is that he is not counted as a moneylender if his business is that of a bona fide banker or insurer; nor if his business, though involving the lending of money, does not have for its primary object the lending of money. In our opinion, the discounting of bills is distinguishable from the lending of money. The person in question "buys" the bills in the sense that he becomes the holder of them for value; it is no part of the arrangement that that value is to be repaid to him *by the person to whom he advanced it*. So that, even if the bill transactions are the primary object of his business, we do not think he is registrable; *a fortiori* if the discounting is only an incident in some more general commercial enterprise.

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, 21 Red Lion Street, London, W.C.1.

They should be **brief, typewritten in duplicate,** and accompanied by the name and address of the sender **on a separate sheet,** together with a **stamped addressed envelope.** Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all.

Will—Bequest of Twenty-five Ordinary Shares—Conversion into Stock and Bonus Issue before Testator's Death

Q. By her will dated in June, 1950, *XY* bequeathed to *W* (*inter alia*) her "twenty-five ordinary shares in the East Kent Road Car Company Limited." At the date of the execution of the will, the deceased was the holder of such twenty-five ordinary shares, but subsequent thereto and prior to her death the shares had been converted into stock units, and as a result of the capitalisation of the company's reserves a bonus issue of two stock units for every unit held was made, with the result that at the date of her death the deceased was the owner of £75 ordinary stock in the East Kent Road Car Company, Ltd. It appears that the conversion of the shares into stock will not adeem the gift, as the stock is of the same nature and identification in substance with the shares. Are there any authorities which indicate the amount of ordinary stock to which the legatee is now entitled?

A. In our view the legatee is now entitled to £25 of ordinary stock. To take first the conversion of shares into ordinary stock. It seems to us that this was a change in name and form only so that that operation does not adeem the legacy. See as to this *Oakes* v. *Oakes* (1852), 9 Hare 666; *Re Slater* [1907] 1 Ch. 665, 672. After this operation came the capitalisation of reserves, and in our opinion the stock issued by way of bonus did not and does not represent the old stock but was wholly new, subscribed for and paid for out of the company's reserve fund, and so will not pass under the legacy. See as to this *Re Kuypers* [1925] 1 Ch. 244; *Re O'Brien* (1946), 175 L.T. 406; 62 T.L.R. 594, and cases therein cited. References to further authorities will be found in Jarman on Wills, 8th ed., vol. 2, p. 1056, and in Theobald on Wills, 11th ed., pp. 160–161.

NOTES AND NEWS

Honours and Appointments

Mr. TRAVERS CHRISTMAS HUMPHREYS has been appointed Recorder of Guildford. The Recordership of Deal has accordingly become vacant upon Mr. Humphreys resigning therefrom.

The Colonial Office announces the following appointments and promotions in the Colonial Legal Service :—

Mr. M. A. CHARLES, Magistrate, British Guiana, to be District Magistrate, Gold Coast ;

Mr. J. S. R. COLE, Attorney-General, Somaliland, to be Attorney-General, Tanganyika ;

Sir OWEN CORRIE, Puisne Judge, Kenya, to be Chairman, Rent Control Board, Kenya ;

Mr. A. L. CRAM, Resident Magistrate, Kenya, to be Senior Resident Magistrate, Kenya ;

Mr. B. A. DOYLE, Attorney-General, Fiji, to be Attorney-General, Northern Rhodesia ;

Mr. G. W. FARMER, Police Magistrate and Coroner, Barbados, to be Resident Magistrate, Uganda ;

Mr. A. D. FARRELL, Legal Draftsman, Federation of Malaya, to be Solicitor-General, Federation of Malaya ;

Mr. W. H. GOUDIE, Resident Magistrate, Kenya, to be Senior Resident Magistrate, Kenya ;

Mr. E. R. HARLEY, Resident Magistrate, Kenya, to be Senior Resident Magistrate, Kenya ;

Sir J. H. HENRY, Solicitor-General, Tanganyika, to be Attorney-General (Supernumerary), Cyprus ;

Mr. D. J. T. MCCARTHY, Police Magistrate, Sierra Leone, to be Chief Magistrate, Northern Region, Nigeria ;

Mr. H. E. MUNROE, Clerk of the Court, Jamaica, to be Crown Counsel, Jamaica ;

Mr. J. P. MURPHY, Attorney-General, Zanzibar, to be Puisne Judge, Kenya ;

Mr. R. H. SMALL, Resident Magistrate, Jamaica, to be Puisne Judge, Jamaica ;

Mr. K. G. SMITH, Clerk of the Court, Jamaica, to be Crown Counsel, Jamaica ;

Mr. A. M. F. WEBB, Deputy Public Prosecutor, Kenya, to be Legal Draftsman, Kenya ;

Mr. D. R. BARWICK to be Assistant Attorney-General and Assistant Legal Adviser, B.S.I.P. ; and

Mr. T. T. RUSSELL to be Judge of the High Court, Somaliland Protectorate.

Personal Notes

Mr. Norman Buckley, solicitor, of Manchester, set up a new one-hour world water speed record, unlimited class, on 17th September, in his speedboat "Miss Windermere III." His average speed was 79·66 m.p.h.

Mr. Reginald Howard Carter, solicitor, of Huddersfield, was married on 21st September to Miss Patricia Kathryn Roberts, of Huddersfield.

Miscellaneous

DEVELOPMENT PLANS

PLYMOUTH DEVELOPMENT PLAN

The Minister of Housing and Local Government has approved with modifications the development plan for the County Borough of Plymouth. The plan, as approved, will be deposited at Pounds House, Plymouth, for inspection by the public.

CITY AND COUNTY OF BRISTOL DEVELOPMENT PLAN

On 4th September, 1956, the Minister of Housing and Local Government approved (with modifications) the above development plan. A certified copy of the plan, as approved by the Minister, has been deposited at the Town Clerk's Office, Council House, College Green, Bristol 1 (Second Floor—entrance from Deanery Road), and will be available for inspection free of charge by all interested persons between the hours of 9 a.m. and 5 p.m. on Mondays to Fridays, and between the hours of 9 a.m. and 12 noon on Saturdays. The plan became operative as from 18th September, 1956, but if any person aggrieved by the plan desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the approval of the plan, he may, within six weeks from 18th September, 1956, make application to the High Court.

ADMINISTRATIVE COUNTY OF LONDON DEVELOPMENT PLAN

Proposals for alterations or additions to the above development plan were on 11th September, 1956, submitted to the Minister of Housing and Local Government. The proposals relate to land situate within the Metropolitan Borough of Finsbury (Nos. 29 to 32 (consecutive), Beech Street and No. 55, Whitecross Street). A certified copy of the proposals as submitted has been deposited for public inspection at The County Hall, Westminster Bridge, S.E.1 (Room 311A). A certified copy of the proposals has also been deposited for public inspection at Finsbury Town Hall, Rosebery Avenue, E.C.1, and the City of London Town Clerk's Office, 55–61 Moorgate, E.C.2. The copies of the proposals so deposited, together with copies or relevant extracts of the plan, are available for inspection free of charge by all persons interested at the places mentioned above between the hours of 10 a.m. and 4 p.m. Monday to Friday, 10 a.m. and 12 noon Saturday. Any objection or representation with reference to the proposals may be sent in writing to the secretary, Ministry of Housing and Local Government, at Whitehall, London, S.W.1, before 30th October, 1956, and any such objection or representation should state the grounds on which it is made. Persons making an objection or representation may register their names and addresses with the London County Council (reference LP/O. 1) and will then be entitled to receive notice of any amendment of the plan made as a result of the proposals.

COUNTY OF NORTHUMBERLAND DEVELOPMENT PLAN

Ashington Town Map

Designation Map A/1—Berwick-upon-Tweed

The above town map and designation map, both of which are prepared as part of the above development plan, were on 12th September, 1956, submitted to the Minister of Housing and Local Government for approval. The town map comprises the greater part of the Urban District of Ashington, the whole of the Urban District of Newbiggin-by-the-Sea, and a small south-eastern part of the Rural District of Morpeth. The designation map relates to an area of approximately 2,500 square yards on the north side of Wool Market, Berwick-upon-Tweed. Certified copies of the town map and designation map as submitted for approval have been deposited for public inspection at the County Hall, Newcastle upon Tyne, 1. Certified copies of the town map have also been deposited for public inspection at the offices of the aforementioned District Councils. A certified copy of the designation map has also been deposited for public inspection at the Municipal Buildings, Berwick-upon-Tweed. The copies of the town map and designation map so deposited are available for inspection free of charge by all persons interested at the places mentioned above during normal office hours. Any objection or representation with reference to the town map or designation map may be sent in writing to the secretary, Ministry of Housing and Local Government, Whitehall, London, S.W.1, before 31st October, 1956, and any such objection or representation should state the grounds on which it is made. Persons making an objection or representation may register their names and addresses with the Northumberland County Council at the office of the Clerk of the County Council, County Hall, Newcastle upon Tyne, 1, and will then be entitled to receive notice of the eventual approval of the town map.

CHARITABLE TRUSTS IN NORTHERN IRELAND

A committee has been appointed by the Northern Ireland Minister of Finance to consider and report on the law (except as regards taxation) relating to charitable trusts in Northern Ireland including their application *cy-près* with particular regard to: (*a*) the powers and duties of the Ministry of Finance as successor to the Commissioners of Charitable Donations and Bequests in Ireland; (*b*) the report of the Committee on the Law and Practice relating to Charitable Trusts in England and Wales (Cmd. 8710) and the White Paper entitled "Government Policy on Charitable Trusts in England and Wales" (Cmd. 9538), and any legislation which may be passed to implement the White Paper; and (*c*) the reports of 24th July, 1954, and 25th April, 1955, of the inter-departmental committee on schemes made under the Educational Endowments (Ireland) Act, 1885.

The Minister has appointed Professor F. H. Neward (Professor of Jurisprudence at Queen's University) to be chairman of the committee.

LAND REGISTRY NOTICE

The public are reminded that on and after 15th October, 1956, registration of title will be compulsory on sale in the County Borough of Oldham.

H.M. Land Registry.
September, 1956.

CROWN'S RIGHT TO WITHHOLD EVIDENCE

C. J. Hamson, Professor of Comparative Law at Cambridge and Fellow of Trinity College, referring to the Lord Chancellor's statement last June on the Crown privilege to refuse disclosure of documents as evidence in court, will compare, in a talk on the B.B.C.'s Third Programme, on 30th September, the position of English and French administration in this respect.

A lecture will be given on 2nd October at 6.15 p.m. in the Middle Temple Hall by Mr. Charles Fletcher-Cooke, M.P., on "The Restrictive Trade Practices Act, 1956." The Chair will be taken by The Rt. Hon. Lord Justice Denning. Tickets are available at the offices of the Solicitors' Managing Clerks' Association, Maltravers House, Arundel Street, Strand, W.C.2.

Wills and Bequests

Mr. Thomas Evander Evans, solicitor, of Hoddesdon, Hertfordshire, and Gray's Inn Square, London, W.C.2, left £64,862 (£63,279 net).

Mr. George Augustus Lewis Holder, solicitor, of Cockermouth, Cumberland, left £16,112.

Mr. E. M. Hollins, solicitor, of Carnforth, Westmorland, left £34,402 net.

Mr. George Oswald Hughes, solicitor, of Johnstown, Wrexham, North Wales, left £21,768.

OBITUARY

MR. H. L. SMITH

Mr. Harry Leighton Smith, solicitor, of Birmingham, died on 16th September, aged 76. He was admitted in 1904.

SOCIETIES

The UNITED LAW DEBATING SOCIETY announces the following meetings for October, 1956, to be held in Gray's Inn Common Room at 7.15 p.m. 8th October: Business: Election of a reporter in place of Mr. K. J. Walbutton-Crawley (resigned); Debate: This House welcomes the Labour Party Policy Statement on Equality published this year. 15th October: Debate: This House considers that the decisions in *In re Barr's Contract* [1956] 2 All E.R. 853 and in *Cotton* v. *Wallis* [1955] 3 All E. R.373 are very wrong. 22nd October: Debate: This House agrees that "when a man marries his trouble begins." 29th October: Debate: This House deplores the present methods employed in determining whether employees of public and private organisations are security risks.

The Annual Dinner of the Society will be held on 10th December, 1956, in the New Hall, Lincoln's Inn. The Rt. Hon. Lord Justice Morris will be in the chair.

On Wednesday, 3rd October, 1956, the LAWYERS' CHRISTIAN FELLOWSHIP have arranged for a service to be held in the Temple Church at 5.45 p.m. It will be conducted by the Master of the Temple, Canon Firth, and the sermon will be preached by Canon T. C. F. Bewes (C.M.S.). All lawyers, law students and visitors will be warmly welcomed.

PRINCIPAL ARTICLES APPEARING IN VOL. 100

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Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).